

## PAUL, WEISS, RIFKIND, WHARTON &amp; GARRISON LLP

1285 AVENUE OF THE AMERICAS  
NEW YORK, NEW YORK 10019-6064

TELEPHONE (212) 373-3000

LLOYD K. GARRISON (1946-1991)  
RANDOLPH E. PAUL (1946-1956)  
SIMON H. RIFKIND (1950-1995)  
LOUIS S. WEISS (1927-1950)  
JOHN F. WHARTON (1927-1977)

WRITER'S DIRECT DIAL NUMBER

212-373-3543

WRITER'S DIRECT FACSIMILE

212-492-0543

WRITER'S DIRECT E-MAIL ADDRESS

agordon@paulweiss.com

UNIT 3601, OFFICE TOWER A, BEIJING FORTUNE PLAZA  
NO. 7 DONGSANHUAN ZHONGLU  
CHAOYANG DISTRICT  
BEIJING 100020  
PEOPLE'S REPUBLIC OF CHINA  
TELEPHONE (86-10) 5828-6300

12TH FLOOR, HONG KONG CLUB BUILDING  
3A CHATER ROAD, CENTRAL  
HONG KONG  
TELEPHONE (852) 2846-0300

ALDER CASTLE  
10 NOBLE STREET  
LONDON EC2V 7JU, U.K.  
TELEPHONE (44 20) 3597 1600

FUKOKU SEIMEI BUILDING  
2-2 UCHISAIWAICHO 2-CHOME  
CHIYODA-KU, TOKYO 100-0011, JAPAN  
TELEPHONE (81 3) 3597-8101

TORONTO-DOMINION CENTRE  
77 KING STREET WEST, SUITE 3100  
PO BOX 226  
TORONTO, ONTARIO M5K 1J3  
TELEPHONE (416) 504-0520

2001 K STREET, NW  
WASHINGTON, DC 20006-1047  
TELEPHONE (202) 223-7300

500 DELAWARE AVENUE, SUITE 200  
POST OFFICE BOX 32  
WILMINGTON, DE 19899-0032  
TELEPHONE (302) 655-4410

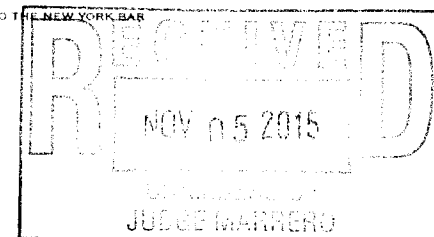
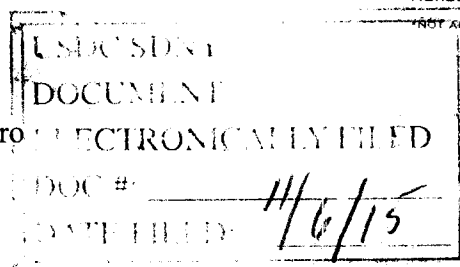
MATTHEW W. ABBOTT  
EDWARD T. ACKERMAN  
ALLAN J. ARFA  
ROBERT A. ATKINS  
DAVID J. BALL  
JOHN F. BAUGHMAN  
LYNN B. BAYARD  
DANIEL J. BELLER  
CRAIG A. BENSON  
MITCHELL L. BERG  
MARK S. BERGMAN  
BRUCE BIRENBOIM  
H. CHRISTOPHER BOEHNING  
ANGELO BONVINO  
JAMES L. BROCHIN  
RICHARD J. BRONSTEIN  
DAVID W. BROWN  
SUSANNA M. BUERGEL  
PATRICK S. CAMPBELL  
JESSICA S. CAREY  
JEANETTE K. CHAN  
YVONNE Y. F. CHAN  
LEWIS R. CLAYTON  
JAY COHEN  
KELLEY A. CORNISH  
CHRISTOPHER J. CUMMINGS  
MARGARET D. DAVIDOW  
THOMAS V. DE LA BASTIDE III  
ARIEL J. DECKELBAUM  
ALICE BELISLE EATON  
ANDREW J. EHRlich  
GREGORY A. EZRING  
LESLIE GORDON FAGEN  
MARI FALCONE  
ROSS A. FIELDSTON  
ANDREW C. FINCH  
BRAD J. FINKELSTEIN  
BRIAN P. FINNEGAN  
ROBERTO FINZI  
PETER E. FISCH  
ROBERT C. FLEDER  
MARTIN FLUMENBAUM  
ANDREW J. FOLEY  
HARRIS B. FREDUS  
MANUEL S. FREY  
ANDREW L. GAINES  
KENNETH A. GALLO  
MICHAEL E. GERTZMAN  
ADAM M. GIVERTZ  
SAVATORE GOGLIORMELLA  
ROBERT D. GOLDBAUM  
NEIL GOLDMAN  
CATHERINE L. GOODALL  
ERIC GOODISON  
CHARLES H. GOOGE, JR.  
ANDREW G. GORDON  
UDI GROFMAN  
NICHOLAS GROOMBRIDGE  
BRUCE A. GUTENPLAN  
GAINES GWATHMEY, III  
ALAN S. HALPERIN  
JUSTIN G. HAMILL  
CLAUDIA HAMMERMAN  
GERARD E. HARPER  
BRIAN S. HERMANN  
MICHELE HIRSHMAN  
MICHAEL S. HONG  
DAVID S. HUNTINGTON  
AMRAN HUSSEIN  
LORETTA A. IPPOLITO  
BRIAN M. JANSON  
JAREN JANGHORBANI  
MEREDITH J. KANE

ROBERTA A. KAPLAN  
BRAD S. KARP  
PATRICK N. KARSNITZ  
JOHN C. KENNEDY  
BRIAN KIM  
ALAN W. KORNBURG  
DANIEL J. KRAMER  
DAVID K. LAKHDHIR  
STEPHEN P. LAMB  
JOHN E. LANGE  
DANIEL J. LEFFELL  
XIAOYU GRES LIU  
JEFFREY D. MARELL  
MARCO V. MASOTTI  
EDWIN S. MAYNARD  
DAVID W. MAYO  
ELIZABETH R. MCCOLM  
MARK F. MENDELSON  
WILLIAM B. MICHAEL  
TOBY S. MYERSON  
CATHERINE NYARADY  
JANE B. O'BRIEN  
ALEX YOUNG K. OH  
BRAD R. OKUN  
KELLEY D. PARKER  
MARC E. PERLMUTTER  
ROBERT E. PETERSON  
CARL L. REISNER  
LORIN L. REISNER  
WALTER G. RICCIARDI  
WALTER RIEMAN  
RICHARD A. ROSEN  
ANDREW N. ROSENBERG  
JACQUELINE P. RUBIN  
RAPHAEL M. RUSSO  
ELIZABETH M. SACKSTEDE  
JEFFREY D. SAFERSTEIN  
JEFFREY B. SAMUELS  
DALE M. SARRO  
TERRY E. SCHIMEK  
KENNETH W. SCHNEIDER  
ROBERT B. SCHUMER  
JOHN M. SCOTT  
STEPHEN J. SHIMSHAK  
DAVID R. SICULAR  
MOSES SILVERMAN  
STEVEN SIMKIN  
JOSEPH J. SIMONS  
AUDRA J. SOLOWAY  
SCOTT M. SONTAG  
BRIAN W. STEWART  
ERIC ALAN STONE  
AIDAN SYNNOTT  
ROBYN F. TARNOFSKY  
MONICA K. THURMOND  
DANIEL J. TOAL  
LIZA M. VELAZQUEZ  
MARIA T. VILLO  
ALEXANDRA M. WALSH  
LAWRENCE G. WEE  
THEODORE V. WELLS, JR.  
BETH A. WILKINSON  
STEVEN J. WILLIAMS  
LAWRENCE I. WITDORCHIC  
MARK B. WLAZLO  
JULIA MASON WOOD  
JENNIFER H. WU  
JORDAN E. YARETT  
KAYE N. YOSHINO  
TONG YU  
TRACEY A. ZACCONE  
TAURIE M. ZEITZER  
T. ROBERT ZOCHOWSKI, JR.

November 4, 2015

By Hand

The Honorable Victor Marrero  
United States District Judge  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl St.  
New York, NY 10007-1312



*Anwar, et al. v. Fairfield Greenwich Limited, et al.,*  
No. 09-cv-118 (S.D.N.Y.) (VM) (FM)

Dear Judge Marrero:

We represent the Citco Defendants in the above action. As directed by the Court, we respectfully submit this letter in response to the October 30, 2015 letter submitted by advisors to and representatives of certain investors (the "Deminor Investors") in the Fairfield Sentry Ltd., Fairfield Sigma Ltd. and Fairfield Lambda Ltd. funds.

In their letter to the Court, the Deminor Investors purport to offer their "serious concerns and reserves" about the proposed settlement between plaintiffs and the Citco Defendants. As we explain below, the Deminor Investors' supposed concerns and reserves should be rejected as procedurally improper and substantively meritless.

**The Deminor Investors' Letter Is Procedurally Improper**

As an initial matter, the Deminor Investors' letter is patently improper and should be disregarded. The Deminor Investors acknowledge that they have filed timely requests to be excluded from the proposed settlement. They concede, as they must, that they are, as a result, precluded from objecting to the settlement. *See Reid v. SuperShuttle Int'l, Inc.*, No. 08 Civ. 4854 (JG)(VVP), 2012 U.S. Dist. LEXIS 113117, at \*6 n.1 (E.D.N.Y. Aug. 10, 2012) ("Some of the class members who have opted out filed letters with the Court objecting in general terms to the settlement. However, by opting out, these class members relinquished their standing to formally object to the settlement."); *In re Warner Comm. Sec. Litig.*, 618 F. Supp. 735, 753 (S.D.N.Y. 1985) (dismissing purported objections from two opt-outs who objected to a proposed settlement because the individuals were no longer class members and thus lacked "standing to challenge the settlement"), *aff'd*, 798 F.2d 35 (2d Cir. 1986).

The Deminor Investors purport to state "concerns and reserves" about the settlement, arguing that the settlement supposedly does not provide "fair, reasonable and adequate compensation." Such an argument, however, is a quintessential *objection* to the terms of a proposed class action settlement. As the case law cited above makes clear, the Deminor Investors have no standing to assert such an objection, or any other objection for that matter. Their purported objections should be rejected on this ground alone.

The Deminor Investors' letter, in fact, makes clear the very reasons for the rule barring opt-outs from objecting to class action settlements. Their letter was submitted by two lawyers affiliated with Deminor Recovery Services, a firm that is part of a Luxembourg-based group of companies and that bills itself as an "originator" and "manager" of "actions on behalf of private and institutional investors."<sup>1</sup> The obvious purpose of their letter is either to secure additional clients from the class or to scuttle the proposed settlement, or both. The former interest is not an appropriate basis for an objection, and the latter is an improper effort to interfere with a settlement in which the Deminor Investors are not participating.

Further, any concerns on the part of the Deminor Investors that approval of the proposed settlement could somehow interfere with the claims they acknowledge they are pursuing against certain Citco entities in the Netherlands should be given no weight. Those claims arise out of precisely the same circumstances that gave rise to this matter and seek compensation for both their own and the relevant funds' alleged losses. The Deminor Investors, however, cannot plausibly complain that the settlement in this matter could somehow deny them recovery in their Dutch lawsuit. To be clear, Citco intends to vigorously defend itself against those claims and is confident that its strong factual and legal defenses will prevail. In the meantime, the Deminor Investors are free to pursue their claims irrespective of the outcome of this matter.

---

<sup>1</sup> *See* Deminor Recovery Services, Recovery of investment losses, <http://www.deminor.com/drs/en/services/recovery-of-losses> (last visited Nov. 4, 2015).

**In Any Event, The Deminor Investors' Objections Are Meritless**

Even if the Deminor Investors' objections to the settlement were considered (and they should not be), they should be rejected on the merits because the settlement is fair, reasonable, and adequate.

To begin with, the Deminor Investors' view of the proposed settlement—which was the recommended settlement amount proposed by a highly regarded mediator after several mediation sessions—evidently is not shared by the vast majority of other class members. The Deminor Investors claim to have aggregate “Net Losses” of approximately \$155 million. That, however, is less than *five percent* of the damages claimed by plaintiffs in this matter. Significantly, the vast majority of the other class members—those representing more than 95% of plaintiffs' claimed damages—apparently agree that the settlement *is* fair, reasonable, and adequate.

Any class member who wished to opt out of the settlement had to do so by October 16. As of that date, to the best of our knowledge only *two* class members unaffiliated with the Deminor Investors had filed out-out notices. One of those opt-outs had a Net Loss of only \$1.5 million—amounting to only 0.05% percent of plaintiffs' claimed losses—while the other opt-out was a net winner and thus had no claim. As of today, both of those opt-outs have withdrawn their requests to be excluded from the class. Accordingly, to the best of our knowledge not a single class member other than the Deminor Investors has opted out of the class. The Deminor Investors' view of the proposed settlement thus stands in marked contrast to the views of other class members, who have chosen overwhelmingly to participate in the settlement.

Further, the only supposed support the Deminor Investors offer for their argument that the settlement is supposedly unfair is the fact that class members will receive, at a minimum, 2.5% of their Net Losses in the settlement. But, as the Deminor Investors acknowledge, plaintiffs have shown, based on research from Cornerstone Research, that “median settlements as a percentage of ‘estimated damages’ for 2014 was 2.2% and ranged for 2005 through 2014 between a high of 3.1% to a low of 1.8%.” (ECF No. 1423 ¶ 87.) The Deminor Investors cannot rebut that showing by relying on nothing more than their own *ipse dixit* that a 2.5% recovery is insufficient “based on the specificities of this particular case”—“specificities” they do not even identify.

If anything, the “specificities of this particular case” confirm that the proposed settlement is fair, reasonable, and adequate. As demonstrated in the Citco Defendants' briefing in both this Court and the Second Circuit, and as explained by plaintiffs in their motion for approval of the settlement (*see* ECF No. 1423 ¶¶ 9-10), plaintiffs face numerous factual and legal obstacles to any recovery on their claims against the Citco Defendants. The Citco Defendants firmly believe that they would prevail if this matter proceeded to trial. Moreover, even if plaintiffs prevailed on their claims, any recovery would likely be years in the future. Under these circumstances, the

The Honorable Victor Marrero

4

recovery class members will receive under the settlement is eminently fair, particularly when compared with recoveries in other class action settlements in this District.

In sum, the Deminor Investors' objections, even if this Court chooses to consider them (and it should not), should not stand in the way of the proposed settlement in this matter.

Respectfully,



Andrew Gordon

cc: (via email)

Charles Demoulin  
Joeri Klein  
David A. Barrett  
Stuart H. Singer  
Victor E. Stewart  
Robert C. Finkel  
Sarah L. Cave  
Timothy A. Duffy

<p>The Clerk of Court is directed to enter into the public record of this action the letter above submitted to the Court by <u>the Citicorp Defendants</u>.</p> <p><b>SO ORDERED.</b></p> <p><u>11-6-15</u>      <u>[Signature]</u></p> <p>DATE      VICTOR MARRERO, U.S.D.J.</p>
---